

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of 2009 Iowa Code Supplement section 321I.22(9) and Iowa Code section 455A.5(6), the Natural Resource Commission hereby rescinds Chapter 46, “All-Terrain Vehicle and Snowmobile Bonding,” and adopts a new Chapter 46, “All-Terrain Vehicles, Off-Road Motorcycles and Off-Road Utility Vehicles,” Iowa Administrative Code.

The adopted new chapter clarifies the procedures for registration, renewal, titling, decal placement and accident reporting for all-terrain vehicles, off-road motorcycles and off-road utility vehicles. Division II of the new chapter establishes minimum standards for all-terrain vehicle dealers as authorized under 2009 Iowa Code Supplement section 321I.22(9). Division III provides for the regulation of designated off-highway vehicle riding areas.

Rules related to bonding requirements that are currently included in Chapter 46 are being moved to new Chapter 50, “All-Terrain Vehicle, Off-Road Motorcycle, Off-Road Utility Vehicle, Snowmobile and Vessel Bonding” (see **ARC 8880B** herein).

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 5, 2010, as **ARC 8730B**. Public comments were taken through the public hearing, which was held on May 25, 2010.

Comments received and the Department responses are as follows:

1. The Department received a request to amend rule 571—46.23(321I) to add a “landline” telephone service requirement. The Department agrees and has made the change. Rule 571—46.23(321I) now reads as follows:

“571—46.23(321I) Dealer’s established place of business. A dealer’s established place of business shall include landline telephone service and an adequate office area for keeping business records, manufacturers’ certificates of origin, certificates of title or other evidence of ownership for all-terrain vehicles offered for sale.”

2. The Department received a request to amend subrule 46.26(1) to remove the word “sell” from the language. No change has been made to subrule 46.26(1) because the practice is already allowed under Iowa Code section 321I.22.

3. The Department received a request to amend paragraph 46.52(3)“d” to remove language that would require the Department to satisfy “all” concerns of adjacent property owners to a proposed OHV park. The request noted that the proposed language goes beyond the Department OHV Land Acquisition and Development Policy. The Department agrees that there is a difference between addressing concerns and satisfying everyone and, therefore, has made the change. Paragraph 46.52(3)“d” now reads as follows:

“d. There is evidence that adjacent property owners, including those within the viewshed and within earshot of the proposed designated riding area, that exist at the time of establishment have been notified of the plan and their concerns have been addressed.”

4. The Department received a request to amend subrule 46.54(5) to require both the operator and passenger to wear a helmet. As proposed, the subrule only applies to the operator. The Department agrees and has made the change. Subrule 46.54(5) now reads as follows:

“46.54(5) Safety equipment required. All operators and their passengers shall wear helmets while operating a regulated vehicle on a designated riding area, including parking and unloading areas. The local sponsor, or the department consistent with its relationship to the local sponsor under rule 571—46.53(321I), may post signs that require operators to wear additional safety gear depending on conditions.”

5. The Department received a request to delete subrule 46.54(8) because the language has been duplicated elsewhere in the chapter. The Department agrees and has removed the subrule.

6. The Department received a request to amend subrule 46.58(4) to allow for seat belts other than original manufactured equipment. Improved seatbelts are available from other suppliers and should be allowed. The Department agrees and has made the change. Subrule 46.58(4) now reads as follows:

“**46.58(4)** Vehicles must be equipped with manufacturer seat belts or equivalent that are in good working order. The operator and all passengers must wear seat belts at all times the vehicle is in motion.”

7. The Department received a request to amend subrule 46.58(6) to allow for a machine width of 62 inches rather than the proposed 60 inches. The Department agrees and has made the change.

These rules are intended to implement Iowa Code chapter 321I.

These rules shall become effective on August 4, 2010.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 46] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 8730B**, IAB 5/5/10.

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[Published 6/30/10]

[For replacement pages for IAC, see IAC Supplement 6/30/10.]